THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21253 OF 2005

27th July 2006

Between:

The District Collector & Chairman DSC – 2001,
Nizamaad and three others.

.. Petitioners.

And

V. Sulochana, D/o Lakshmaiah and two others.

.. Respondents.

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21253 OF 2005

ORDER: (Per Hon'ble Sri Justice B. Prakash Rao)

The petitioners herein, which includes the District Collector,the District Educational Authorities and the Government through its Secretary, School Education Department, filed this Writ Petition, *inter alia,* assailing the order dated 09.12.2004 in O.A.No.6327 of 2002 before the Andhra Pradesh Administrative Tribunal at Hyderabad allowing the application filed by the first respondent herein whereby proceedings No.5858/A2/2001, dated 25.05.2002 issued by the second petitioner herein, rejecting her claim as local candidate of Nizamabad District, was set aside.

Heard the learned Government Pleader for Services-I appearing on behalf of the petitioners and Sri Noushad Ali, the learned counsel appearing on behalf of the first respondent and at their request, the Writ Petition itself is taken up for disposal.

In the application filed by the first respondent herein challenging the aforesaid impugned proceedings dated 25.05.2002, her case is

that she belongs to BC (D) community and she possessed degree and also Telugu Pandit Training. She appeared for DSC-2001 examination for selection and appointment to the post of Telugu Pandit Grade-II as local candidate from Nizamabad District with Hall Ticket No.18350192 wherein it was mentioned her as non-local candidate though she actually belongs to Nizamabad District. She approached the Authorities for verification and to that effect proper correction was made as local candidate. In the said examination, she secured 54.83 marks and thus, she was expecting that she would be selected to the said post. However, she was shown as non-selected candidate whereas one Smt. K.Kalyani and J. Shoba Rani, who secured 43.25 marks belonging to BC (D) and O.C. communities, were appointed though they were not entitled to. Even though, she made representation, the same was rejected by proceedings dated 08.04.2002 on the ground that she did not submit the application along with necessary residential certificate as required. Even though she filed the community, nativity and date of birth certificate issued by the Mandal Revenue Officer, Bodhan dated 27.03.1998, which shows that she belongs to BC (D) and resident of Nizamabad District and her date of birth as 11.08.1966, which is more conclusive to establish herself as a local candidate, she was treated as non-local candidate. It is her

specific case that she studied III to IX class in Tagores Tutorial College, at Bodhan in Nizamabad District and 10th, Inter and Degree and Telugu Pandit Training at Hanmakonda of Warangal District and therefore, she squarely falls within the definition of local candidate under the Presidential Order. Further, it was pointed out that in the later year for DSC-2002, she was treated as local candidate and issued Hall Ticket No.18350065 and therefore, treating her as non-local for the earlier DSC-2001 is totally un-sustainable. Earlier, she had filed O.A.No.3932 of 2002 which was disposed of as per the order dated 17.04.2002 directing the first petitioner to look into the matter and if there is any mistake in not selecting the applicant, necessary orders be passed. However, in spite of the same, once again, under the impugned order 25.05.2002, the applicant was informed that since she has not submitted the residential certificate issued by the Mandal Revenue Officer in the prescribed form, she was treated as non-local candidate and therefore, she was rightly treated as non-local candidate. It is stated that the said proceedings are totally illegal.

The claim of the applicant was contested, *inter alia,* by the petitioners by filing counter-affidavit denying the allegations and the claim as made by her and pointing out that the applicant studied from III to IX class at Tagores Tutorial College, which is unrecognized by

the Government of A.P. Admittedly, she appeared for the 10th class qualifying examination as a regular candidate from Government Girls High School at Warangal and later all other examinations at Warangal only. There is no dispute in regard to her appearance for the DSC-2001 and securing 54.83 marks. Having regard to the procedure under G.O.Ms.No.8, dated 08.1.2002, she was not selected as she belongs to non-local candidate. It was further objected to the effect that on verification, it was found that she studied only at Hanmakonda in Warangal District and in fact, the applicant has to submit the residential certificate along with the application which she did not do so. Therefore, she was rightly treated as non-local candidate.

On considering the respective submissions, the Tribunal allowed the application mainly on the ground that the certificate issued by the Mandal Revenue Officer, mentions 'resident of Bodhan' and she was treated as a local candidate for DSC-2002 which was not questioned by the petitioners, so that itself is a sufficient recognition to show that she is a local candidate apart from the integrated certificate issued by the Mandal Revnue Officer showing her all details. Therefore, the rejection of her claim as local candidate is not found to be sustainable and ultimately it was directed that the applicant be given posting as per the merit as Telugu Pandit Grade-II and the seniority should be fixed

as per that merit but pay and allowance should be paid after giving posting to her. Hence, this Writ Petition.

The learned Government Pleader appearing on behalf of the petitioners submits that para No. 5 (IV) 4 of the notification mandates the applicants must have to enclose the said certificates from the Head of the Institutions from IV to X (SSC) class and copies of the residential certificate as proof of a local candidate. Rule 7 of the Andhra Pradesh Direct Recruitment of Teachers (Scheme of Selection) Rules, 2000 issued in G.O.Ms.No.72, dated 03.07.2000 contemplates that the application has to be in the format as prescribed. Admittedly, since the first respondent did not produce these relevant certificates along with the application, she was rightly treated as a non-local candidate. Since the applicant complied with the conditions for the DSC-2002, she was treated as local candidate which is not conclusive one since it is now found that the claim as made by her is not correct. It is further pointed out that as per the letter dated 08.1.2005 issued by the District Educational Officer, Nizamabad requested the District Educational Officer, Warangal to furnish genuineness certificate and in response it was informed that she has studied from VIII to X class at Government Girls High School, Hanmakonda (Petrol Pump) through admission No.3358, dated 18.06.1980 and before and prior to this, she studied her lower class (class VII) at ZPHS Girls, Parkal of Warangal District

and she passed SSC examination as a regular candidate. Further, it was pointed out that the District Educational Officer, Warangal did not issue the *bona fide* certificate as enclosed along with the application. Thus, it is evident that she had not studied I to X class at Bodhan and even the other certificate is quite false and apparently the applicant misled the Tribunal.

In reply, it is contended that having regard to the very inconsistent stand taken by the petitioners allowing her as a local candidate for DSC-2002 examination and denying the same is quite contradictory, the certificate issued by the Mandal Revenue Officer, Bodhan is quite sufficient to establish the proof of her residence, date of birth etc. Therefore, the finding of the Tribunal is perfectly justified and not liable to be varied with.

Taking into consideration the rival submissions made across the Bar and the material available on record, the only point that arises for consideration is as to whether, in the facts and circumstances, the first respondent, who is applicant before Tribunal, can be treated as local candidate of Nizamabad District ?

Short of repeating the chequered events as pointed out above and especially the first respondent/applicant applying for DSC-2001 and DSC- 2002 is not denied. There is no dispute to the fact that she

was treated as local candidate for the DSC-2002 examination but ultimately she could not succeed. However, for DSC-2001 examination, the first respondent sought to place reliance mainly on the certificate dated 16.03.2001 issued by the Mandal Revenue Officer, Bodhan for the purpose of establishing herself as local candidate. It is quite important to note that admittedly the first respondent did not accompany those certificates as contemplated either in the notification or as per the aforesaid Rule 7 of the Andhra Pradesh Direct Recruitment of Teachers (Scheme of Selection) Rules, 2000 for DSC-2001 examination. On a reading of para 5 (IV) 4 of the notification read with the aforesaid rule, every applicant has to accompany all these certificates especially the study certificate in regard to IV to X class in proof of not only the residence but also to enable them to establish as a local candidate. There is absolutely no explanation forthcoming either in the petition filed before the Tribunal in O.A.No.6327 of 2002 or even in the counter-affidavit filed in this Writ Petition as to why these certificates are not accompanied along with the application for DSC-2001. Merely because for the later period she was treated as local candidate, it would not in any way inure to her benefit nor would estop the authorities to check the same in case of doubts arise. The case of the applicant is that she studied from I to IX class at Bodhan which is not supported by any certificate duly issued

by a recognized school as pointed out on behalf of the petitioners. The certificate produced is that of a private Tutorial College but not a recognized school as such. Further, the specific allegation made both at the Tribunal level and also in the affidavit filed in support of the Writ Petition before this Court to the effect that on verification by the authorities, it was found that the first respondent has studied preceding X class at Hanmakonda of Warangal District, more so from VIII to X class at Government Girls High School, Hanmakonda (Petrol Pump) through admission No.3358, admission dtd.18.06.1980 and before that she studied her lower class (class VII) at ZPHS Girls, Parkal Distarict Warangal and most importantly she herself appeared the SSC as a regular candidate from Warangal which itself shows that the applicant has not approached this Court with all the clear facts. Further, it is also conspicuous to note that these specific allegations have remained un-rebutted nor there is any denial in any form what-so-ever and therefore, vis-à-vis such information furnished by the petitioners about her study prior to X class and the certificate produced from the Tutorial College by the applicant, it cannot be said that the first respondent can claim that she did study only at Bodhan but not at Warangal. These are all very serious doubts, which arise in the present case and for which, there is no proper explanation forth coming. Except placing reliance

on her being treated as a local candidate for the later year in DSC-2002 and the sole certificate issued by the Mandal Revenue Officer, Bodhan, the entire claim is sought to be rested thereon which is having regard to the nature of the certificates required and also the basic qualifications as prescribed. Even under the Presidential Order, it mandates the applicant necessarily to come out with proper and true account rather than with any such certificates, which casts serious doubts. Unfortunately, the Tribunal did not take into consideration these later aspects and especially the information as furnished by the petitioners in regard to the specific averment as to her study at Hanmakonda and Parkal and further even appearing herself as a regular candidate at Warangal, no reasons have been assigned in this regard. In view of the same, the approach of the Tribunal and the ultimate finding to hold that the first respondent is to be treated as local candidate of Nizamabad Distarict is not sustainable. Another important aspect which has to be taken note of is that in the O.A.No.6327 of 2002 filed before the Tribunal, the cause title as furnished by her itself shows as a daughter of V. Lakshmaiah whereas now in the counter-affidavit filed in this Writ Petition she comes for the first time to say that she in fact married on 24.02.1989 to Sri B. Gangadhar, who is working in the District Treasury Office, Nizamabad

as Junior Accountant and on this ground, she has to be treated as resident of Nizamabad District. Again, this is another contradiction to the claim made by her whether she should be treated as a resident of Nizamabad District or on account of her marriage since her husband is working in Nizamabad, she should be treated as the resident of Nizamabad is a moot question to be answered. Further, the first respondent has not come out with any specific version as to actual place of residence or other particulars of her parents and their residences. There is a clear suppression in this regard for which also again no reason as to why she should not come out with even the particulars of her parents. In the circumstances, it has to be held that the authorities have rightly rejected her claim as local candidate of Nizamabad District and especially having regard to hovering clouds over the entire claim and even on the documents as filed by her and the contradictory stands and the material available on record.

The Writ Petition is, accordingly, allowed. The order dated 09.12.2004 in O.A.No.6327 of 2002 before the Andhra Pradesh Administrative Tribunal at Hyderabad is set aside. No costs.

Having regard to the aforesaid observations in regard to the correctness of the particulars as furnished in the certificates i.e., community, nativity and the date of birth issued by the Mandal Revenue Officer, Bodhan, Nizamabad District vide serial No.246526

Certificate NO.B1/1520/98, the first petitioner shall conduct an enquiry in regard to the correctness of the said certificate by issuing proper notice and holding an enquiry after notice and opportunity to the first respondent and take appropriate action consequently against those who are responsible.

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B. PRAKASH RAO, J

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RAMESH RANGANATHAN, J

27th July 2006.
Chvn.